



California Fair Political Practices Commission

April 21, 1987

John D. Flitner
City Attorney
City of Rohnert Park
6750 Commerce Blvd.
Rohnert Park, CA 94927

Re: Your Request for Advice
Our File No. A-87-096

Dear Mr. Flitner:

You have written on behalf of the members of the City Council of Rohnert Park to request our advice.

QUESTION

Are the members of the city council disqualified from discussing and voting upon the granting of fringe benefits for themselves?

CONCLUSION

Members of the city council are not disqualified from discussing or voting upon issues involving their salary or fringe benefits of the type which normally are considered to be a part of an employee's compensation.

FACTS

The City of Rohnert Park is negotiating with its management. The major items on the table for management unit members are medical benefits, physical examinations, life insurance (a \$50,000 policy), dental coverage, free use of city recreational facilities, and inclusion of military service in PERS retirement computations. The councilmembers are interested in securing similar fringe benefits for themselves.

Of the items proposed, none were available last year for the councilmembers except medical care, which the councilmembers could secure, provided they paid the applicable premium.

ANALYSIS

The Political Reform Act (the "Act")^{1/} prohibits public officials from making, participating in making, or using their official positions to influence the making of any decision in which they have a financial interest. (Section 87100.) An official has a financial interest in a decision if it will have a reasonably foreseeable material financial effect, distinguishable from the effect upon the public generally, on the official or any member of the official's immediate family. (Section 87103.) Thus, an official may not act where

[i]t is reasonably foreseeable that the personal expenses, income, assets, or liabilities of the official or his or her immediate family will be increased or decreased by at least \$250 by the decision....

Regulation 18702.1(a)(4) (copy enclosed).

The Act's definition of "income" excludes:

... Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency....

Section 82030(b)(2).

We have held that the salary exclusion also excludes normal fringe benefits, such as retirement contributions and health insurance. (See In re Moore, 3 FPPC Ops. 33, No. 76-074, and Saint-Evens Advice Letter, No. A-83-172, copies enclosed.) However, provision of these fringe benefits will also affect the councilmembers' personal liabilities. Consequently, we must examine whether some other exclusion applies to these circumstances.

By regulation, the Commission has determined to exclude such decisions from the requirement of disqualification. Two

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

regulations apply in this regard. They read, in pertinent part:

(d) Making or participating in the making of a governmental decision shall not include:....

(3) Actions by public officials, employees, or employee representatives relating to their compensation or the terms or conditions of their employment or contract.

Regulation 18700(d)(3).

(b) ... an official is not attempting to use his or her official position to influence a governmental decision of an agency ... if the official:....

(3) Negotiates his or her compensation or the terms and conditions of his or her employment or contract.

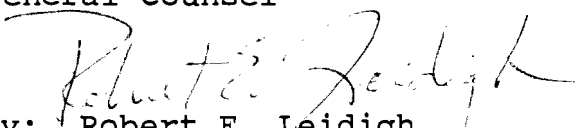
Regulation 18700.1(b)(3).

The Commission has determined that it is necessary that public officials be permitted to make and participate in making decisions affecting their own compensation. In the case of the city council, they are ultimately accountable as elected officials to the voters if dissatisfaction arises over the level of their compensation, including fringe benefits.

I trust this letter has answered your question. If you have questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel


By: Robert E. Leidigh
Counsel, Legal Division

DMG:REL:plh
Enclosure

CITY OF ROHNERT PARK

6750 Commerce Boulevard
Rohnert Park, Sonoma County, California 94927
Telephone 795-2411

F P F
MAR 25 10 15 AM '87

March 16, 1987

Fair Political Practices Commission
1100 K Street Building
Sacramento, California 95814

Dear Sir:

The Rohnert Park City Council has asked me whether a conflict of interest occurs if it approves fringe benefits for itself similar to fringe benefits granted to its management unit.

The City of Rohnert Park is negotiating with its management. The major items on the table for management unit members are medical benefits, physical examinations, life insurance (\$50,000 policy), dental coverage, use of city recreational facilities at no charge and inclusion of military service in PERS retirement computations.

A copy of the proposed resolution approving these benefits is enclosed for your information in knowing exactly what is proposed.

Of the items proposed, none were available last year for the councilpersons except for the provision of medical care which the Council could secure, provided it paid the applicable premium.

Now in fiscal 1986-87, can the City Council include itself as a beneficiary of these benefits and not be in violation of a prohibition against conflict of interest?

Very truly yours,



JOHN D. FLITNER
CITY ATTORNEY

JDF/jes

RESOLUTION NO. 87-

RESOLUTION AUTHORIZING ADDITIONAL BENEFITS FOR
CERTAIN KEY CITY POSITIONS

WHEREAS, the City Council of the City of Rohnert Park recognizes that the successful operation of the City organization is in large measure due to the interest and job dedication of certain key management employees, and

WHEREAS, certain key management employees are identified as the following positions:

Mayor, City Council Members, City Manager, Director of Administrative Services/Asst. to the City Manager, Director of Public Works/City Engineer, Supt. of Public Works, Asst. Supt. of Public Works, Planning Director, Senior Building Inspector, Director of Public Safety, Public Safety Division Commanders, Recreation Director, Finance Director/Treasurer, and Public Safety Supervisors (Lieutenants).

WHEREAS, it is acknowledged that persons occupying these positions are expected to put in whatever time is necessary to accomplish the responsibilities and duties of their positions and to meet the goals of the City administration and in many instances this results in work weeks far in excess of the standard 40 hours per week, and

WHEREAS, it is further acknowledged and reaffirmed as City policy that persons occupying the aforementioned positions are not paid overtime pay premium which is paid to all other employees who work hours over and above their normal work schedule, and

WHEREAS, the aforementioned positions can and are commonly referred to as the "management team" for City operations, and

WHEREAS, the Council wants to appropriately recognize and compensate the management team for its dedication to duties and responsibilities and at the same time to set it apart from all other employees and to encourage the continuation of their high job interest and dedication over and above that normally demanded of other City employees, and

WHEREAS, many other cities throughout the State of California provide extra fringe benefits to their management personnel in recognition of the important role that the management team plays in a City's operation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Rohnert Park that the following additional fringe benefits are hereby approved for the employees in the City positions previously mentioned in this resolution:

1. Health Insurance - Payment by City of any deductible or co-payment required by R.E.M.I.F., Kaiser, Health Plan of the Redwoods or any other offered Health Maintenance Organization.

2. Physical Examinations - Any unreimbursed costs for routine physical examinations of the employee after any payments made for same under the City provided health insurance program which is administered by the Redwood Empire Municipal Insurance Fund (REMIF).

3. Counseling Service - Any unreimbursed cost for professional counseling services after any payments made under the City provided health insurance programs, with a maximum benefit of \$1,000 per calendar year per family including payments made by the health insurance program.

4. Life Insurance - \$50,000 each employee, \$5,000 spouse, and \$5,000 each dependent.

5. Dental Coverage - 100% of usual, customary, and reasonable treatment and prosthodontics subject to a combined yearly maximum of \$1,500 per employee or each dependent, and 100% orthodontics to a life time maximum of \$2,500.

6. Administrative Leave - Four (4) administrative leave days per calendar year.

7. Use of City Facilities - Employees and their spouses will be allowed to participate with no fee imposed in open gym time and use the weight room and locker room facility at the Sports Center when such facilities are open and also participate in the Lap Swim Program conducted at the City's swimming pools. Other activities requiring payment of a fee can be discussed with the City Manager for consideration of a waiver of part or all of the fee.

8. Long Term Disability - Two-thirds (2/3) of salary to a maximum salary of \$6,000 per month (equals \$4,000 payment) applicable to all employees, based on salary.

9. Retirement (Public Employees' Retirement System) - (A) Amend PERS contract to include prior military service applicable to all Miscellaneous Members that qualify under conditions by PERS; (B) Amend PERS contract to include third (3rd) level 1959 Survivorship Benefits for both Public Safety and Miscellaneous Members.

BE IT FURTHER RESOLVED that a family member is as defined in the City provided health plan administered by the Redwood Empire Municipal Insurance Fund.

BE IT FURTHER RESOLVED that the City Manager is authorized and directed to be responsible for the appropriate administration of this resolution and to provide to the City Council periodic reports of costs incurred by the City for the benefits provided hereunder.

DULY AND REGULARLY adopted this 10th day of March, 1987.

CITY OF ROHNERT PARK

Mayor

ATTEST:

Deputy City Clerk

CITY OF ROHNERT PARK
MANAGEMENT BENEFITS
SUMMARY

BENEFIT	CURRENT BENEFIT	PROPOSED BENEFIT	ADDITIONAL	PROPOSED COST INCREASE
(1) Vision Care	\$300/Year Employee \$300/ 2 Cal Year Dependent	Same		N/A
(2) Physical Exams	Cost of Routine Physicals 100%	Same		N/A
(3) Dental Coverage	100% Usual & Customary Charges 100% Ortho to \$2,500 100% Prostho to \$1,500	Include Novato Dr. in survey		N/A
(4) Counseling	\$150/Year	50/50 to \$1,000/Year Coordinate with REMIF		\$9,500
(5) Administrative Leave	4 Days Per Outline	Same		N/A
(6) Health Insurance	80/20 Medical Plan from REMIF, Kaiser, Health Plan of the Redwoods or other HMO offered	100% Medical Plan from REMIF, Kaiser, Health Plan of the Redwoods or other Pay Deductible Pay Premium Difference		\$5,700 180
(7) Life Insurance	\$10,000 (Same as all employees)	\$50,000 Employee \$5,000 Spouse; \$5,000 Dependent		\$6,000
(8) Long-Term Disability	2/3 Salary to \$3,000 (\$2,000 Pay)	2/3 Salary to \$6,000 (\$4,000 Pay)		<u>\$2,400</u>
		TOTAL ANNUAL		<u>\$23,780</u>
		ANNUAL PER EMPLOYEE		<u>\$1,252</u>
		MONTHLY PER EMPLOYEE		<u>\$104</u>
(9) Amend PERS Contract (applicable to all employees)				
(A) To include Military Service				
(B) 3rd Level 1959 Survivors Benefits				



California Fair Political Practices Commission

March 27, 1987

John D. Flitner
City Attorney
6750 Commerce Boulevard
Rohnert Park, CA 94927

Re: 87-096

Dear Mr. Flitner:

Your letter requesting advice under the Political Reform Act was received on March 25, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert E. Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh